

REMARKS

The drawings are objected to under M.P.E.P. §608.02(g). The Action states that Figs. 1-3 should be designated by the legend "Prior Art". Applicants have designated Figs. 1-3 as "Prior Art". Replacement sheets 1/5 and 2/5 are attached hereto.

Claims 43-64 are pending. Claims 48 and 50 stand rejected under 35 U.S.C. §112, second paragraph, as being indefinite. Claim 51 stands rejected under 35 U.S.C. §102(a) as being anticipated by portions of Applicants' specification ("Applicants' specification"). Claims 43, 46, 47, 49, 50, 51-56 and 58 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Applicants' specification in view of U.S. Patent No. 6,102,465 to Nemoto et al. ("Nemoto"). Claims 44 and 45 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Applicants' specification and Nemoto further in view of U.S. Patent No. 6,071,619 to De Winter ("De Winter"). Claim 48 stands rejected under 35 U.S.C. §103(a) as being unpatentable over Applicants' specification and Nemoto further in view of U.S. Patent No. 3,910,371 to Magrini ("Magrini"). Claims 52, 55, 56 and 58 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Nemoto. Claims 53 and 54 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Applicants' specification and Nemoto further in view of De Winter. Claim 57 stands rejected under 35 U.S.C. §103(a) as being unpatentable over Applicants' specification in view of Magrini.

Applicants have amended Claims 43 and 48-51, as indicated above, to further clarify Applicants' invention. Applicants have withdrawn Claims 59-64 and have added new Claims 65-69. Applicants respectfully traverse the claim rejections for at least the reasons set forth below.

In re: Gebreselassie et al.
Serial No.: 10/726,391
Filed: December 3, 2003
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Drawing Objections Are Overcome

Applicants have designated Figs. 1-3 as "Prior Art". Replacement sheets 1/5 and 2/5 are attached hereto.

§102 Rejections Are Overcome

A claim is anticipated under 35 U.S.C. §102 if each claimed element is found in a single prior art reference. *Scripps Clinic & Research Foundation v. Genentech, Inc.*, 927 F.2d 1565, 1576 (Fed. Cir. 1991); *Carella v. Starlight Archery and Pro Line Co.*, 804 F.2d 135, 138 (Fed. Cir. 1986). There must be no difference between the claimed invention and the reference disclosure, as viewed by an ordinary artisan. *Scripps Clinic & Research Foundation v. Genentech, Inc.*, 927 F.2d at 1576.

The Action states that pages 1-4 of Applicants' specification discloses a method of installing a vehicle cockpit assembly within a passenger compartment of a vehicle, "wherein a dashboard configured to be attached to the firewall includes upper and lower substrates being joined together and being attached to the firewall, with an instrument panel being attached to an upper edge of the dash insulator and a floor covering being attached to a lower edge of the dash insulator." (Action, Pages 3-4). It is presumed that the Action is referring to the Background of the Invention section of Applicants' specification. The Background of the Invention section of Applicants' specification is set forth below in its entirety.

It is generally considered desirable to reduce the level of noise within a vehicle passenger compartment. External noises, such as road noise, engine noise, vibrations, etc., as well as noises emanating from within passenger compartments, may be attenuated through the use of various acoustical materials. Accordingly, sound attenuating materials for vehicles, such as automobiles, are conventionally used in the dashboard, in conjunction with carpeting for floor panels, in the wheel wells, in the trunk compartment, under the hood, and as part of the headliner.

The attenuation of external noise is conventionally referred to as sound transmission loss (STL). The attenuation of internal noise is conventionally referred to as sound absorption. The acoustic impedance of a material is defined as material density times acoustic velocity, and is expressed in units of Rayls (Newton-seconds/meter³). Acoustic impedance defines how easy it is for air to move through a material. Thus, for fibrous materials, acoustic impedance depends upon the density of the fibrous material and fiber diameter. Generally, the heavier the blanket and the finer the fibers, the higher the acoustic impedance. Moreover, thicker layers typically have more acoustic impedance than thin layers. The ability of a material to attenuate noise is conventionally defined by the material's STL, acoustic impedance, and absorption characteristics.

Carpeting used to cover the floor areas of vehicles, such as automobiles, is conventionally molded into a non-planar three dimensional contoured configuration which conforms to the contours of the vehicle floor so as to fit properly. In order to

make the carpeting moldable and shape-sustaining, it is conventionally provided with a backing of thermoplastic polymer composition. The thermoplastic polymer backing also serves as a barrier to improve the sound deadening properties of the carpet assembly.

Dash insulators are often mounted to a vehicle firewall which separates the passenger compartment from an engine compartment. Dash insulators are designed to reduce the transmission of noise and heat from the engine compartment into the passenger compartment. Conventional dash insulators consist of an acoustical absorber such as an open-cell polyurethane foam or a resinated fiber pad which faces the fire wall, and a barrier sheet such as a heavily filled thermoplastic material. Dash insulator barriers are conventionally produced in a compounding process followed by an extrusion or calendaring process or by an injection molding process to achieve a barrier sheet of desired thickness and width.

Fig. 1 illustrates a conventional dash insulator **10** for reducing noise and heat transmitted from an engine compartment of a motor vehicle **12** into a passenger compartment. The dash insulator **10** is adapted to be mounted inside the passenger compartment of the vehicle against substantially the width of a fire wall **14** that separates the engine compartment from the passenger compartment.

Vehicle instrument panels are generally located behind the steering wheel of a vehicle and include a number of gauges or other displays for providing a driver with information about vehicle conditions. In addition, air vents for distributing cooled and heated air throughout a passenger compartment are often mounted within an instrument panel. Instrument panels are conventionally mounted onto a vehicle firewall with the dash insulator disposed therebetween. **Fig. 2** illustrates a conventional instrument panel **20**. The illustrated instrument panel **20** includes an instrument cluster area **22**, air vents **24**, central console area **26** and glove box **28**.

Fig. 3 illustrates a conventional automotive carpet assembly **30**. The illustrated carpet assembly **30** has a nonplanar three dimensional molded configuration adapted to fit in the front seat compartment of an automobile and includes a raised medial portion **31** adapted to conform to the transmission hump, generally vertically extending side portions **32** adapted to fit beneath the door opening, and a front portion **33** adapted to fit along the inclined floorboard and portions of a vehicle firewall. Various openings or cut-outs are provided, as indicated at **34**, to receive air conditioning equipment, the steering column, pedals and the like.

During vehicle manufacturing, dash insulators, instrument panels and floor coverings are typically installed separately. In addition, the installation of dash insulators, instrument panels and floor coverings can be complex and labor intensive. As such, vehicle manufacturers are continuously looking for ways to reduce costs and complexity associated with vehicle manufacturing.

U.S. Patent No. 4,597,461 to Kochy et al. describes a pre-assembled module for the cockpit zone of a motor vehicle, which is adapted to be mounted as one single unit inside the vehicle body and which incorporates essentially the following components: an instrument board including all instruments and accessories commonly contained therein, fuse box and electric wiring, heater with controls and air distribution system; furthermore a steering system including steering wheel, steering

column enclosure and steering support means; also pedals for clutch and brake, including mounting brackets. The vehicle body includes a fire wall and fire wall support member to which the aforementioned components and accessories are connected when in the installed position. The fire wall and fire wall support member are separated from the body shell and serve as an assembly base for the unit. In the installed position, the fire wall and fire wall support member are sealingly connected with the respective adjacent body panels. (Applicants' Specification, Pages 1-4).

Nothing in Applicants' Background of the Invention section describes an instrument panel being attached to an upper edge of the dash insulator and a floor covering being attached to a lower edge of the dash insulator. Applicants respectfully request the Examiner to specifically identify where the alleged citation is located. In fact, Applicants' Background of the Invention specifically states that dash insulators, instrument panels and floor coverings are typically installed *separately*. (Applicants' Specification, Page 4).

Because Applicants' Background of the Invention section does not disclose all of the recited elements of independent Claim 51, Claim 51 and all claims depending therefrom are not anticipated by Goldman. As such, the rejection under 35 U.S.C. §102 is overcome.

§103 Rejections Are Overcome

A determination under §103 that an invention would have been obvious to someone of ordinary skill in the art is a conclusion of law based on fact. *Panduit Corp. v. Dennison Mfg. Co.* 810 F.2d 1593, 1 U.S.P.Q.2d 1593 (Fed. Cir. 1987), *cert. denied*, 107 S.Ct. 2187. After the involved facts are determined, the decision maker must then make the legal determination of whether the claimed invention as a whole would have been obvious to a person having ordinary skill in the art at the time the invention was unknown, and just before it was made. *Id.* at 1596. The United States Patent and Trademark Office (USPTO) has the initial burden under § 103 to establish a *prima facie* case of obviousness. *In re Fine*, 837 F.2d 1071, 5 U.S.P.Q.2d 1596, 1598 (Fed. Cir. 1988).

To establish a *prima facie* case of obviousness, the prior art reference or references when combined must teach or suggest ***all*** the recitations of the claims, and there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. M.P.E.P. § 2143. The mere fact that references can be combined or modified does not render the resultant combination obvious unless the prior art also ***suggests the desirability*** of the combination. M.P.E.P. § 2143.01(citing *In re Mills*, 916 F.2d 680, 16 U.S.P.Q.2d 1430 (Fed. Cir. 1990)). As emphasized by the Court of Appeals for the Federal Circuit, to support combining references, evidence of a suggestion, teaching, or motivation to combine must be ***clear and particular***, and this requirement for clear and particular evidence is not met by broad and conclusory statements about the teachings of references. *In re Dembiczak*, 50 U.S.P.Q.2d 1614, 1617 (Fed. Cir. 1999). In an even more recent decision, the Court of Appeals for the Federal Circuit has stated that, to support combining or modifying references, there must be ***particular*** evidence from the prior art as to the reason the skilled artisan, with no knowledge of the claimed invention, would have selected these components for combination in the manner claimed. *In re Kotzab*, 55 U.S.P.Q.2d 1313, 1317 (Fed. Cir. 2000).

Furthermore, as stated by the Federal Circuit with regard to the selection and combination of references:

This factual question of motivation is material to patentability, and could not be resolved on subjective belief and unknown authority. It is improper, in determining whether a person of ordinary skill would have been led to this combination of references, simply to "[use] that which the inventor taught against its teacher." W.L. Gore v. Garlock, Inc., 721 F.2d 1540, 1553, 220 USPQ 303, 312-13 (Fed. Cir. 1983). Thus the Board must not only assure that the requisite findings are made, based on evidence of record, but must also explain the reasoning by which the findings are deemed to support the agency's conclusion....

In re Sang Su Lee, 277 F.3d 1338, 1343 (Fed. Cir. 2002).

Applicants respectfully submit that the pending claims are patentable over the cited references because the cited combinations fail to disclose or suggest the recitations of the pending claims and the reasoning behind such combinations has not been established. The patentability of the pending claims is discussed in detail hereinafter.

Applicants' independent Claim 43 recites a method of installing a vehicle cockpit assembly within a passenger compartment of a vehicle, wherein the passenger compartment is separated from an engine compartment by a firewall, wherein the passenger compartment comprises a floor, the method comprising:

- providing a dash insulator that is configured to be attached to the vehicle firewall;
- attaching an instrument panel to the dash insulator;
- ascertaining acoustic properties of the vehicle to identify portions of the dash insulator requiring sound reflection and/or absorption;
- applying sound reflection and/or absorption material to identified portions of the dash insulator; and
- installing the attached dash insulator and instrument panel within a vehicle as a single cockpit assembly.

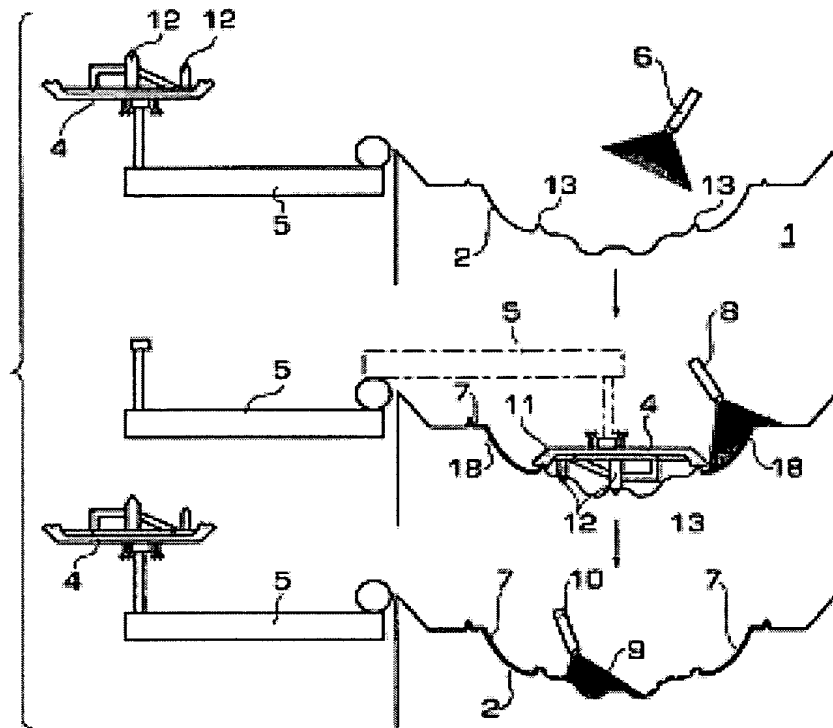
The Action states that Applicants' Background of the Invention section discloses an instrument panel attached to a dash insulator. (Action, Pages 4-5). Applicants respectfully disagree and request that the Examiner specifically point out where this disclosure is in Applicants' Background of Invention section. As previously stated above, nothing in Applicants' Background of the Invention section describes an instrument panel being attached to an upper edge of the dash insulator or a floor covering being attached to a lower edge of the dash insulator. Furthermore, nothing in Applicants' Background of the

Invention section describes installing an attached dash insulator and instrument panel within a vehicle as a single cockpit assembly. In fact, Applicants' Background of the Invention specifically states that dash insulators, instrument panels and floor coverings are typically installed *separately*. (Applicants' Specification, Page 4). Moreover, the secondary reference, Nemoto, fails to teach or suggest these recited elements of independent Claim 43. Applicants respectfully request the withdrawal of the present rejection of Claim 43 under 35 U.S.C. §103.

Applicants' Claim 44 recites "applying sound reflection and/or absorption material to identified portions of the dash insulator comprises spraying polyurethane to one or more portions of the dash insulator." Applicants' Claim 45 recites "spraying polyurethane comprises spraying polyurethane with different thicknesses to one or more portions of the dash insulator."

The Action states that De Winter teaches applying polyurethane foam to a dashboard by spraying the foam on the dashboard, and references Col. 6, Lines 45-56 in support thereof. The action then concludes that it would have been "obvious to spray urethane foam as the sound absorption material of AAPA/Nemoto et al. in light of De Winter. (Action, Pages 5-6). Applicants respectfully disagree.

De Winter describes a method for manufacturing an elastomeric skin comprising surface portions of at least two differently colored elastomeric materials, by spraying the elastomeric materials against a mold surface. A portion of a mold surface is shielded off by a mask and a layer of a first elastomeric material is sprayed onto the surface and onto the edge of the mask. The mask is removed and a second elastomeric material is sprayed onto the previously-masked portion of the mold surface. This is illustrated in Fig. 1 of De Winter, which is set forth below.



De Winter requires that the edges 11 of the mask 4 be placed on top of upstanding edges 13 of the mold surface 2 so that the transition between both elastomeric materials 7, 9 is achieved on these upstanding edges 13, *i.e.*, in an outer recess of the elastomeric skin resulting in an aesthetic visual parting line. Also, De Winter requires that the edges 11 of the mask 4 be maintained at a distance from the mold surface 2 such as to avoid contact between the layer of first elastomeric material 7 sprayed onto the mold surface 2 and the mask 4. De Winter states that an object of his invention is to provide a method for manufacturing an elastomeric skin of at least two elastomeric materials which achieves an aesthetic visual parting line between the elastomeric materials. (De Winter, Col. 1, Lines 17-20).

De Winter fails to teach or suggest applying sound reflection and/or absorption material to identified portions of a dash insulator. De Winter fails to teach or suggest spraying polyurethane with different thicknesses to one or more portions of a dash insulator wherein the polyurethane material is applied as a sound reflection and/or absorption material.

Moreover, nothing in De Winter teaches or suggests an instrument panel being attached to an upper edge of a dash insulator and a floor covering being attached to a lower edge of the dash insulator, and then installing the attached dash insulator and instrument panel within a vehicle as a single cockpit assembly. Applicants respectfully request the withdrawal of the present rejections of Claims 44 and 45 under 35 U.S.C. §103.

Applicants' Claim 48 recites "attaching an instrument panel to the dash insulator comprises movably attaching the instrument panel to a first edge portion of the dash insulator." The Action states that Magrini teaches movably attaching an instrument panel to a dashboard and cites Col. 1, Lines 24-38 from Magrini in support thereof. This passage is set forth below.

An object of the present invention is to obviate such disadvantages by providing an instrument panel of the above-mentioned type which is of simple and strong construction and easy and convenient to mount, and which allows the greatest possible accessibility to the rear of the instrument panel for repair or maintenance work or for replacement of parts.

Another object of a preferred embodiment of the invention is to provide an instrument panel of the abovementioned type which enables installation of the hydraulic fluid reservoir for the braking and/or clutch control systems in a position in which the fluid level can be constantly observed and in which it is possible to effect filling or replenishment of the reservoir without dismantling the instrument panel from the vehicle.

Nothing in the cited passage, or anywhere else in Magrini, teaches or suggests movably attaching an instrument panel to a first edge portion of a dash insulator. Moreover, there is no mention of attaching an instrument panel to a dash insulator whatsoever. Applicants respectfully request the withdrawal of the present rejection of Claims 48 under 35 U.S.C. §103.

The Action has rejected Claims 52-58, which depend from independent Claim 51, based on various combinations of the references discussed above. Applicants' independent Claim 51 recites a method of installing a vehicle cockpit assembly within a passenger compartment of a vehicle, wherein the passenger compartment is separated from an engine compartment by a firewall, and wherein the passenger compartment comprises a floor, the method comprising:

providing a dash insulator that is configured to be attached to the vehicle firewall, and that includes an upper substrate having opposite first and second surfaces and opposite first and second edge portions, a lower substrate having opposite third and fourth surfaces and opposite third and fourth edge portions, wherein the upper and lower substrates are configured to be joined together along the respective second and third edge portions;

attaching an instrument panel to the upper substrate first edge portion to form a first cockpit assembly portion;

attaching a floor covering to the lower substrate fourth edge portion to form a second cockpit assembly portion;


installing the first and second cockpit assembly portions within a vehicle such that the first and second substrates are attached to the firewall; and

joining the upper and lower substrates together along the second and third edge portions thereof.

Applicants respectfully submit that none of the references, alone or in combination, teach or suggest all of the recitations of independent Claim 51. As such, dependent Claims 52-58 are not rendered obvious by any of the above-cited references, alone or in combination. Applicants respectfully request the withdrawal of the present rejection of Claims 42-58 under 35 U.S.C. §103.

In view of the above, it is respectfully submitted that this application is in condition for allowance, which action is respectfully requested.

Respectfully submitted,



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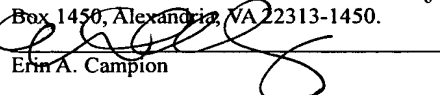
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